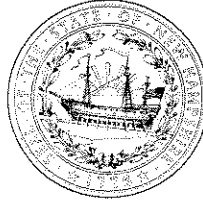


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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL

August 26, 2005

Section 5 Submission

Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20006

Re: Submission Under Section 5 of the Voting Rights Act for:

New Hampshire Revised Statute Annotated ("RSA") 654:27, a STATUTE related to the session for corrections to the checklist, most recently amended by Laws of 2003 Chapter 27 and previously amended by the chapters cited below.

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973 (c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits RSA 654:27, a STATUTE related to the session for correction of the checklist, most recently amended by Laws of 2003 Chapter 27 and previously amended by the chapters cited below.

SUBMISSION:

In accordance with 28 C.F.R. § 51.27, the submission is as follows:

- a) Chapter 27 (2003) amending RSA 654:27 is attached (Exhibit 654:27 A)
 - 1. Chapter 272 (2001) amending RSA 654:27 is attached (Exhibit 654:27 B)

2. Chapter 194 (1998) amending RSA 654:27 is attached (Exhibit 654:27 C)
 3. Chapter 36 (1996) amending RSA 654:27 is attached (Exhibit 654:27 D)
 4. Chapter 199 (1990) amending RSA 654:27 is attached (Exhibit 654:27 E)
- b) Chapter 436 (1979) recodifying RSA 55:08 as RSA 654:27 is attached (Exhibit 654:27 F)
- c) The changes made by amendments to RSA 654:27 are as follows:
1. Chapter 27 (2003) changes “8:00” to “7:30”
 2. Chapter 272 (2001) changes “9:00” to “8:00” and inserts the phrase “...and at the discretion of the supervisors for extended hours...” following such time change
 3. Chapter 194 (1998) inserts the sentence “*Notice of the day, hour, and place of each session of the board of supervisors shall be given upon the checklists first posted and shall be published in a newspaper of general circulation in the city or town at least 7 days prior to each session*” following the first sentence of this statute
 4. Chapter 36 (1996) amends the statute catchline from “Sessions” to “Session” and removes the following language:
 - a. “...on at least 2 occasions prior to any state election, the last of which will be...”
 - b. “*The first session shall be upon the third Tuesday preceding the day of the election and shall take place for 2 hours between 7:00 pm and 9:00 pm and shall be adjourned to such subsequent day or days at the same time as will permit all claims to be heard and decided. Notice of the day, hour, and place of each session of the board of supervisors shall be given upon the checklists first posted and shall be published in a newspaper of general circulation in the city or town at least 7 days prior to each session*”
 5. Chapter 199 (1990) inserts the phrase “...provided, however, that if the Saturday falls on a holiday weekend, that session shall be held on Tuesday, 7 days prior to the election, between

7:00 pm and 9:00 pm...” at the end of the first sentence and replaces “*6:00*” with “*7:00*” in the second sentence

6. Chapter 436 (1979) recodifies RSA 55:08 as RSA 654:27

- d) This submission is made by: Senior Assistant Attorney General Orville B. Fitch II, 33 Capitol Street, Concord, New Hampshire 03301, Phone: (603) 271-1238.
- e) The submitting authority is New Hampshire Attorney General, Kelly A. Ayotte for the State of New Hampshire.
- f) Not applicable.
- g) The changes for which pre-clearance is sought were made by a decision of the New Hampshire General Court (Legislature).
- h) In accordance with Amendment X of the U.S. Constitution, the New Hampshire General Court, the State’s legislature, acting pursuant to the New Hampshire Constitution Part Second, Article 2, granting supreme legislative power within the state to the House and Senate, who with right to negate each other are granted power to make law through Part Second, Article 5. Additional authority regarding election law is vested in Part First, Article 11.

The legislature through a bicameral process passed law to create Chapter 27 (Exhibit 654:27 A). The bill was signed into law (by the Governor) on May 2, 2003, pursuant to New Hampshire Constitution Part Second, Article 44.

- i) Adoption dates:
 - 1. Chapter 27 (2003) adopted May 2, 2003
 - 2. Chapter 272 (2001) adopted July 16, 2001
 - 3. Chapter 194 (1998) adopted June 14, 1998
 - 4. Chapter 36 (1996) adopted April 24, 1996
 - 5. Chapter 199 (1990) adopted April 19, 1990
 - 6. Chapter 436 (1979) adopted June 25, 1979
- j) Effective dates:

1. Chapter 27 (2003) effective July 1, 2003
 2. Chapter 272 (2001) effective September 14, 2001
 3. Chapter 194 (1998) effective August 17, 1998
 4. Chapter 36 (1996) effective June 23, 1996
 5. Chapter 199 (1990) effective June 18, 1990
 6. Chapter 436 (1979) effective July 1, 1979
- k) The changes have been enforced.
- l) The changes affect the entire State of New Hampshire.
- m) The purpose for the changes are as follows:
1. The purpose of the Chapter 27 (2003) change is to reduce the amount of time mandated for the Session for Correction from 1 hour to ½ hour by changing the time the meeting must be held open until from 8:00 pm to 7:30 pm. Since the inception of election day registration and the opportunity to submit a voter registration application to the town or city clerk during the clerk's normal business hours, it has been increasingly rare for inhabitants to seek to register to vote at the sessions of the Supervisors. This change and those below shortening the length of the sessions reflect the reality that over time no one shows up for most sessions. The alternative opportunities to register are more convenient.
 2. The purpose of the Chapter 272 (2001) change is to reduce the amount of time mandated for the Session for Correction from 2 hours to 1 hour by changing the time the meeting must be held open until from 9:00 pm to 8:00 pm and allow supervisors the discretion to hold a longer session for correction if needed
 3. The purpose of the Chapter 194 (1998) change is to mandate notice of the session for correction be posted prior to such a meeting and the manner in which it is to be posted
 4. The purpose of the Chapter 36 (1996) change is to grant supervisors more discretion in when to conduct a session for corrections by removing the language that prescribes details of such session specifically and to remove the notice requirement for such a meeting

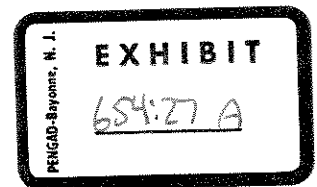
5. The purpose of the Chapter 199 (1990) change is to provide for the situation where a session for corrections is scheduled to occur on a holiday by allowing that if such events occur, the meeting may be moved as stated in the statute and to specify the timeframe for session for correction precisely
 6. The purpose of the Chapter 436 (1979) change is to recodify RSA 55:08 as RSA 654:27
- n) These changes do not negatively target any protected class under section 5 of the Voting Rights Act of 1965. *42 U.S.C. 1973c*. They are expected to have neutral impact and do not meet the test of retrogression defined in *Reno v. Bossier Parish Sch. Bd*, 520 U.S. 471, 478 (1997). “(T)he ability of minority groups...to elect their choices to office” will not be diminished. *Beer v. U.S.*, 425 U.S. 130,141 (1976).
 - o) None known.
 - p) RSA 654:27 was precleared through 1979 on June 22, 2004 by D.O.J. file numbers 2004-2563, 2004-2581 and 2004-2582. A copy of this preclearance is attached as Exhibit 654:27 G. This submission seeks preclearance of all subsequent changes.
 - q) Not applicable as this is not a redistricting plan.
 - r) Exhibit 654:27 H is a copy of a Press Release of this submission, its availability, and inviting comment to federal Department of Justice.

I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

Very truly yours,



Drville B. Fitch II
Senior Assistant Attorney General
Civil Bureau
(603) 271-1238
bud.fitch@doj.nh.gov



CHAPTER 27

HB 120 - FINAL VERSION

12mar03...0545h

2003 SESSION

03-0309

03/09

HOUSE BILL **120**

AN ACT relative to sessions for the correction of the checklist and sessions for changes of party registration.

SPONSORS: Rep. Flanagan, Rock 78

COMMITTEE: Election Law

AMENDED ANALYSIS

This bill shortens to ½ hour the minimum required length for sessions for the correction of the checklist and sessions for changes of party registration. This bill also deletes certain obsolete references.

 Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

12mar03...0545h

03-0309

03/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to sessions for the correction of the checklist and sessions for changes of party registration.

Be it Enacted by the Senate and House of Representatives in General Court convened:

27:1 Cities and Wards; Voters and Checklists; Reference Deleted. Amend RSA 44:5 to read as follows:

44:5 Voters and Checklists. Any person having his ***or her*** domicile within the city, qualified to vote as provided in RSA 654:1-654:2 and 654:4-654:6 and whose name is on the checklist shall be qualified to vote in city elections. The supervisors of the checklist shall prepare, post, and revise the checklist for city elections in the same manner as for a state election as provided in RSA 654:25-654:31 [~~except that the session provided for in RSA 654:27 to be held on the Tuesday 3 weeks prior to the election shall not be required~~].

27:2 Voters and Checklists; Session for Correction. Amend RSA 654:27 to read as follows:

654:27 Session for Correction. In cities and towns, the supervisors of the checklist shall be in session for the correction of the checklist at some suitable place in the city or town on the Saturday 10 days prior to the election and upon which all hearings shall be finally closed; provided that if the Saturday falls on a holiday weekend, that session shall be held on Tuesday, 7 days prior to the election, between 7:00 p.m. and ~~[8:00]~~ **7:30 p.m.** and at the discretion of the supervisors for extended hours. Notice of the day, hour, and place of each session of the board of supervisors shall be given upon the checklists first posted and shall be published in a newspaper of general circulation in the city or town at least 7 days prior to each such session. The reconvening of any session which has been adjourned shall not require the publication of notice.

27:3 Voters and Checklists; Procedure. Amend RSA 654:28 to read as follows:

654:28 Procedure. The supervisors of the checklist shall hear all applications for a correction of the checklist and the evidence submitted thereon and shall correct it according to their best knowledge so that it contains only the names of those persons qualified to vote at said election. The names of all persons not qualified to vote at the time of any session, but who shall clearly be qualified to vote on election day, may be added to the checklist at that session. The session which is held on the Saturday 10 days prior to election day shall be held as a minimum requirement between 11:00 a.m. and ~~[12:00 p.m.]~~ **11:30 a.m.** and at the discretion of the supervisors for additional hours. No additions or corrections shall be made after the Saturday session, except as provided in RSA 659:12 or RSA 654:27, provided, however, that if the Saturday falls on a holiday weekend, that session shall be held on Tuesday, 7 days prior to the election, between 7:00 p.m. and ~~[8:00]~~ **7:30 p.m.** and at the discretion of the supervisors for extended hours. The additions and corrections resulting from such session shall be made to the previously posted checklist on or before midnight on the succeeding Friday either by additions or corrections to said checklist or by posting a new corrected checklist. Notice of such additions or corrections to the checklist shall also be given to the town or city clerk.

27:4 Voters and Checklists; Hearings on Alterations to Party Registration. Amend RSA 654:32 to read as follows:

654:32 Hearings on Alterations to Party Registration. Before each state or presidential primary election, the supervisors of the checklist shall be in session before each primary for the change of registration of legal voters as provided in RSA 654:34 or 654:34-a or both. Before the presidential primary, the session shall be on the Friday preceding the first day of the filing period, between ~~[7]~~ **7:00 p.m. and [9] 7:30 p.m. and at the discretion of the supervisors for extended hours.** Before the state primary election, the session shall be on Tuesday before the first Wednesday in June between ~~[7]~~ **7:00 p.m. and [9] 7:30 p.m. and at the discretion of the supervisors for extended hours.**

27:5 Town Elections; Voters and Checklists. Amend RSA 669:5 to read as follows:

669:5 Voters and Checklists. An updated checklist shall be used at all town meetings and elections for the same purposes a checklist is used at a state election and to insure that only qualified voters participate in town meeting discussions and votes, by voice or otherwise. The supervisors shall prepare, post, and revise the checklist for a town meeting or election in the same manner as for a state election as provided in RSA 654:25-654:31, provided, however, that the session for correction shall be held on Saturday 6 to 13 days prior to the election. The supervisors shall also hold one session for correction of the checklist on the day immediately prior to the first day of the filing period for candidates for town office, as provided in RSA 669:19 or 669:42, as applicable, from ~~[7]~~ **7:00 p.m. to [8] 7:30 p.m. and at the discretion of the supervisors for extended hours.**

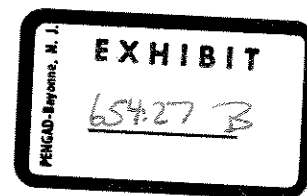
27:6 School District Elections; Checklist. Amend RSA 671:15 to read as follows:

671:15 Checklist. An updated checklist shall be used at all school district elections and meetings for the same purposes as checklists are used by towns as provided in RSA 669:5. Any school district which is coextensive with the town in which it is located may, at an annual meeting under an article in the warrant for such meeting, vote to adopt as the checklist for school meetings the checklist of the town. In case of such adoption, the supervisors of the town checklist, acting as supervisors of the school district checklist, shall correct, certify, and post the checklist for the district as provided in RSA 654:25-654:31. ~~[The session for correction of the checklist required by RSA 654:27 to be held 3 weeks prior to an election shall not be required for school district elections.]~~ The session required to be held 10 days before the school district meeting or election may coincide with the session for correction held for the town meeting or election provided that the school meeting or election coincides with the town meeting or election. If the school meeting or election is held at a time other than the town meeting or election, a separate session for correction of the checklist shall be required to be held 10 days prior to the school district meeting or election.

27:7 Effective Date. This act shall take effect 60 days after its passage.

(Approved: May 2, 2003)

(Effective Date: July 1, 2003)



CHAPTER 272

HB 259 - FINAL VERSION

6/7/01...1464s

26june01...1713CofC

2001 SESSION

01-0361

03/09

HOUSE BILL **259**

AN ACT relative to holding sessions for correction of checklists.

SPONSORS: Rep. F. Davis, Merr 12; Rep. Horton, Coos 3; Rep. Daneault, Merr 12; Rep. Rush, Merr 12

COMMITTEE: Election Law

AMENDED ANALYSIS

This bill changes the hours for evening sessions for correction of checklists from between 7:00 p.m. and 9:00 p.m. to between 7:00 p.m. and 8:00 p.m. and at the discretion of the supervisors for extended hours.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

6/7/01...1464s

26june01...1713CofC

01-0361

03/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand One

AN ACT relative to holding sessions for correction of checklists.

Be it Enacted by the Senate and House of Representatives in General Court convened:

272:1 Voters and Checklists; Checklists: All State Elections; Sessions for Correction; Time. Amend RSA 654:27 to read as follows:

654:27 Session for Correction. In cities and towns, the supervisors of the checklist shall be in session for the correction of the checklist at some suitable place in the city or town on the Saturday 10 days prior to the election and upon which all hearings shall be finally closed; provided that if the Saturday falls on a holiday weekend, that session shall be held on Tuesday, 7 days prior to the election, between 7:00 p.m. and ~~9:00~~ **8:00 p.m. and at the discretion of the supervisors for extended hours.** Notice of the day, hour, and place of each session of the board of supervisors shall be given upon the checklists first posted and shall be published in a newspaper of general circulation in the city or town at least 7 days prior to each such session. The reconvening of any session which has been adjourned shall not require the publication of notice.

272:2 Voters and Checklists; Checklists: All State Elections; Procedure; Time. Amend RSA 654:28 to read as follows:

654:28 Procedure. The supervisors of the checklist shall hear all applications for a correction of the checklist and the evidence submitted thereon and shall correct it according to their best knowledge so that it contains only the names of those persons qualified to vote at said election. The names of all persons not qualified to vote at the time of any session, but who shall clearly be qualified to vote on election day, may be added to the checklist at that session. The session which is held on the Saturday 10 days prior to election day shall be held as a minimum requirement between 11:00 a.m. and 12:00 p.m. and at the discretion of the supervisors for additional hours. No additions or corrections shall be made after the Saturday session, except as provided in RSA 659:12 or RSA 654:27, provided, however, that if the Saturday falls on a holiday weekend, that session shall be held on Tuesday, 7 days prior to the election, between 7:00 p.m. and ~~9:00~~ **8:00 p.m. and at the discretion of the supervisors for extended hours.** The additions and corrections resulting from such session shall be made to the previously posted checklist on or before midnight on the succeeding Friday either by additions or corrections to said checklist or by posting a new corrected checklist. Notice of such additions or corrections to the checklist shall also be given to the town or city clerk.

272:3 Town Elections; General Provisions; Voters and Checklists; Time for Sessions for Correction. Amend RSA 669:5 to read as follows:

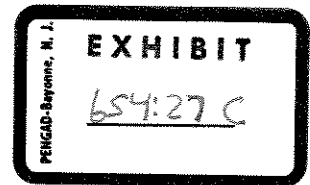
669:5 Voters and Checklists. An updated checklist shall be used at all town meetings and elections for the same purposes a checklist is used at a state election and to insure that only qualified voters participate in town meeting discussions and votes, by voice or otherwise. The supervisors shall prepare, post, and revise the checklist for a town meeting or election in the same manner as for a state election as provided in RSA 654:25 - 654:31, provided, however, that the session for correction shall be held on Saturday 6 to 13 days prior to the election. The supervisors shall also hold one session for correction of the checklist on the day immediately prior to the first day of the filing period for candidates for town office, as provided in RSA 669:19 or 669:42, as applicable, from 7 p.m. to ~~9~~ **8 p.m. and at the discretion of the supervisors for extended hours.**

272:4 Effective Date. This act shall take effect 60 days after its passage.

(Approved: July 16, 2001)

(Effective Date: September 14, 2001)

HB 1121 - FINAL VERSION



5march98.....0866h

1998 SESSION

98-2110

03/01

HOUSE BILL ***1121***

AN ACT making technical corrections to the election laws.

SPONSORS: Rep. Flanagan, Rock 14; Rep. Krueger, Merr 7; Rep. Horton, Coos 3; Rep. Stritch, Rock 5

COMMITTEE: Election Law

AMENDED ANALYSIS

This bill modifies the time frame for checklist correction sessions for town elections and makes other technical changes to election laws.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

5march98.....0866h

98-2110

03/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord One Thousand Nine Hundred and Ninety-Eight

AN ACT making technical corrections to the election laws.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Town Meetings; Articles; Exception Deleted. Amend RSA 39:3 to read as follows:

39:3 Articles. Upon the written application of 25 or more registered voters or 2 percent of the registered voters in town, whichever is less, although in no event shall fewer than 10 registered

voters be sufficient, presented to the selectmen or one of them not later than the fifth Tuesday before the day prescribed for an annual meeting, the selectmen shall insert in their warrant for such meeting the petitioned article with only such minor textual changes as may be required. For the purposes of this section, the number of registered voters in a town shall be the number of voters registered prior to the last state general election. The right to have an article inserted in the warrant conferred by this section shall not be invalidated by the provisions of RSA 32. In towns with fewer than 10,000 inhabitants upon the written application of 50 or more voters or 1/4 of the voters in town, whichever is fewer, and in towns with 10,000 or more inhabitants upon the written application of 5 percent of the registered voters in the town, so presented not less than 60 days before the next annual meeting, the selectmen shall warn a special meeting to act upon any question specified in such application. The checklist for an annual or special town meeting shall be corrected by the supervisors of the checklist as provided in RSA 654:25-31 [~~except that the session 3 weeks before the meeting shall not be required~~]. Those persons qualified to vote whose names are on the corrected checklist shall be entitled to vote at the meeting. The same checklist used at a recessed town meeting shall be used at any reconvened session of the same town meeting. In no event shall a special town meeting be held on the biennial election day.

2 Voter Registration; Eligibility Clarified. Amend RSA 654:7 to read as follows:

654:7 Voter Registration Form. A standard registration application form shall be used throughout the state. The registration form shall be 4 inches by 6 inches and shall be made in triplicate. The secretary of state shall provide for the preparation of the voter registration form which shall be in substantially the following form:

Date _____

VOTER REGISTRATION CARD

(Please print or type)

1. Name _____

Last First Middle Initial

2. Address _____

Street Ward Number

Town or City Zip Code

3. Mailing Address if _____

different than in 2 Street Ward Number

Town or City Zip Code

4. Place and Date of Birth _____

Town or City State

Date _____

5. If a naturalized citizen, give name of court where and date when naturalized

6. Place last registered to vote _____

Town or City

Street Ward Number

7. Name under which previously registered, if different from above

8. Party Affiliation (if any) _____

I hereby swear, under penalty of perjury, that my permanent established domicile is at the above address, that I am a United States citizen, ~~[and]~~ that I ~~[am]~~ **will be** 18 years of age or older **on election day**, and that the information above is true and correct to the best of my knowledge and belief.

(Signature of Applicant)

3 Voter Checklists; Session for Correction; Notice. Amend RSA 654:27 to read as follows:

654:27 Session for Correction. In cities and towns, the supervisors of the checklist shall be in session for the correction of the checklist at some suitable place in the city or town on the Saturday 10 days prior to the election and upon which all hearings shall be finally closed; provided that if the Saturday falls on a holiday weekend, that session shall be held on Tuesday, 7 days prior to the election, between 7:00 p.m. and 9:00 p.m. **Notice of the day, hour, and place of each session of the board of supervisors shall be given upon the checklists first posted and shall be published in a newspaper of general circulation in the city or town at least 7 days prior to each such session.** The reconvening of any session which has been adjourned shall not require the publication of notice.

4 Town Elections; Voters and Checklists; Session Time Changed. Amend RSA 669:5 to read as follows:

669:5 Voters and Checklists. An updated checklist shall be used at all town meetings and elections for the same purposes a checklist is used at a state election and to insure that only qualified voters participate in town meeting discussions and votes, by voice or otherwise. The supervisors shall prepare, post, and revise the checklist for a town meeting or election in the same manner as for a state election as provided in RSA 654:25-654:31, **provided, however, that the**

session for correction shall be held on Saturday 6 to 13 days prior to the election. The supervisors shall also hold one session for correction of the checklist on the day immediately prior to the first day of the filing period for candidates for town office, as provided in RSA 669:19 or 669:42, as applicable, from 7 p.m. to 9 p.m.

5 Effective Date. This act shall take effect 60 days after its passage.

LBAO

98-2110

3/10/98

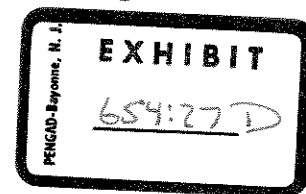
HB 1121 FISCAL NOTE

AN ACT making technical corrections to the election laws.

FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation, as amended by the House, has a total fiscal impact of less than \$10,000 in each of the fiscal years 1998 through 2002.

21feb96.....4872h
04/04/96.....5531L-EBA



HOUSE BILL - FINAL VERSION

1996 SESSION

3414L
96-2574
10/02

HOUSE BILL 1161

AN ACT relative to the information required on the state primary and state general election ballots, voter checklists of cities and towns, candidate and party nominations, nomination papers, and absentee ballots.

SPONSORS: Rep. McGovern, Rock 35; Rep. Flanagan, Rock 14

COMMITTEE: Constitutional and Statutory Revision

AMENDED ANALYSIS

This bill modifies the requirements for sessions for corrections of voter checklists and allows the nomination of parties to be placed on ballots. It also changes the period in which nomination papers shall be filed with the secretary of state and sets the number of names of legal voters required to nominate by nomination papers a political party.

EXPLANATION: Matter added to current law appears in **bold italics**.
Matter removed from current law appears in [brackets].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

21feb96.....4872h
04/04/96.....5531L-EBA

CHAPTER 36
HOUSE BILL - FINAL VERSION

3414L
96-2574
10/02

HB 1161

STATE OF NEW HAMPSHIRE

In the year of Our Lord
One Thousand Nine Hundred and Ninety-Six

AN ACT

relative to the information required on the state primary and state general election ballots, voter
checklists of cities and towns, candidate and
party nominations, nomination papers, and absentee ballots.

Be it Enacted by the Senate and House of
Representatives in General Court convened:

36:1 Session for Correction of Checklist. Amend RSA 654:27 to read as follows:

654:27 [Sessions] **Session** for Correction. In cities and towns, the supervisors of the checklist shall be in session for the correction of the checklist at some suitable place in the city or town [on at least 2 occasions prior to any state election, the last of which shall be] on the Saturday 10 days prior to the election and upon which all hearings shall be finally closed[.]; provided[, however,] that if the Saturday falls on a holiday weekend, that session shall be held on Tuesday, 7 days prior to the election, between 7:00 p.m. and 9:00 p.m. [The first session shall be upon the third Tuesday preceding the day of election and shall take place for 2 hours between 7:00 p.m. and 9:00 p.m. and shall be adjourned to such subsequent day or days at the same time as will permit all claims to be heard and decided. Notice of the day, hour and place of each session of the board of supervisors shall be given upon the checklists first posted and shall be published in a newspaper of general circulation in the city or town at least 7 days prior to each such session.] The reconvening of any session which has been adjourned shall not require the publication of notice.

36:2 Procedure. Amend RSA 654:28 to read as follows:

654:28 Procedure. The supervisors of the checklist shall hear all applications for a correction of the checklist and the evidence submitted thereon and shall correct it according to their best knowledge so that it contains only the names of those persons qualified to vote at said election. The names of all persons not qualified to vote at the time of any session, but who shall clearly be qualified to vote on election day, may be added to the checklist at that session. [Any] **The** session which is held on the Saturday 10 days prior to election day shall be held as a minimum requirement between 11:00 a.m. and 12:00 p.m. and at the discretion of the supervisors for additional hours. No additions or corrections shall be made after the **Saturday** session [which is held on the Saturday 10 days prior to election day], except as provided in RSA 659:12 or RSA 654:27, provided, however, that if the Saturday falls on a holiday weekend, that session shall be held on Tuesday, 7 days prior to the election, between 7:00 p.m. and 9:00 p.m. The additions and corrections resulting from such [sessions] **session** shall be made to the previously posted checklist on or before midnight on the succeeding Friday either by additions or corrections to said checklist or by posting a new corrected checklist. Notice of such additions or corrections to the checklist shall also be given to the town or city clerk.

36:3 New Sections; Nomination of Party; Filing Names of Candidates. Amend RSA 655 by inserting after section 40 the following new sections:

655:40-a Nomination of Party. A political party may have its name placed on the ballot for the state general election by submitting the requisite number of nomination papers pursuant to RSA 655:42, III.

Such papers shall contain the name of the political party and shall be signed by such persons only as are qualified to vote at the state general election. No voter shall sign more than one nomination paper which allows a political party access to the state general election ballot.

655:40-b Filing Names of Candidates. The names of the candidates to be listed on the state general election ballot under the political party nominated by this section shall be submitted to the secretary of state no later than 5:00 p.m. on the Monday immediately following the primary. When the list of candidates is filed, it shall be accompanied by a declaration of candidacy signed by each of the candidates. The declaration of candidacy shall be in the form provided by RSA 655:17 with the understanding that, where the form says primary election, it shall be construed to mean general election.

36:4 Certification. Amend RSA 655:41 to read as follows:

655:41 Certification. Each nomination paper shall be submitted to the supervisors of the checklist of the town or ward in which the signer is domiciled or is registered, and a majority of the supervisors shall certify whether or not the signer is a legal voter in said town or ward. The supervisors of the checklist shall certify nomination papers under this section in a timely fashion, so that their certification shall be complete for each candidate, together with any objections to the nomination papers submitted, no later than 5:00 p.m. on the Wednesday [4] **2** weeks before the primary. Each nomination paper shall be submitted to the supervisors of the checklist no later than 5:00 p.m. on the Wednesday 5 weeks before the primary.

36:5 New Paragraph; Number. Amend RSA 655:42 by inserting after paragraph II the following new paragraph:

III. It shall require the names of legal voters equaling 3 percent of the total votes cast at the previous state general election to nominate by nomination papers a political party.

36:6 Filing Deadline. Amend RSA 655:43, I to read as follows:

I. Nomination papers shall be filed with the secretary of state no later than 5:00 p.m. on the Wednesday [3 weeks] **one week** before the primary. No nomination papers shall be accepted by the secretary of state unless the candidate shall have met the age and domicile qualifications for the office he seeks at the time of the general election and meets all the other qualifications at the time of filing; and, if a candidate for the office of governor, **executive** councilor, state senator, or state representative, unless he shall file with the nomination papers an affidavit of qualifications as provided in RSA 655:28 and 655:29; and if a candidate for United States senator or United States representative, unless he shall meet the qualifications for office under RSA 655:3 and 655:4.

36:7 Nomination. Amend RSA 655:81, XI to read as follows:

XI. The deadline for any candidate to request a recount pursuant to RSA 660:7 shall be [2] **3** days from the day of the primary.

36:8 Name and Domicile. Amend RSA 656:4 to read as follows:

656:4 Name **and Domicile**. Every state general election ballot shall contain the name of each candidate who has been nominated in accordance with the election laws, except as hereinafter provided, and shall contain no other name except party appellations. The names and addresses of the presidential electors shall not be printed on the ballot, but, in lieu thereof, the names of a party's candidates for president and vice-president shall be printed thereon under the designation for "President and Vice-President of the United States". [If a nomination has been made by nomination papers, the words "Nom. Papers" shall be added to the name of the political party.]

36:9 Sending Absentee Ballots. Amend RSA 657:15 to read as follows:

657:15 Sending Absentee Ballots. When the verification required by RSA 657:12 or 657:13 has been made, the clerk shall retain the application and, without delay, personally deliver or mail to the applicant the appropriate ballot and materials as described in RSA 657:7 through 657:9 or designate an assistant to deliver such materials to the applicant. The clerk may not designate as an assistant any person who is a candidate for nomination or office or who is working for such a candidate. Any ballots sent pursuant to the provisions of this section shall be mailed or delivered only by officials from the city or town clerk's office and delivered only to the applicant. If the address to which the absent voter's ballot is sent is outside the United States or Canada, such papers shall be sent by air mail. Said clerks shall keep lists of

the names and addresses, arranged by voting places, of all applicants to whom official absent voting ballots have been sent, and shall identify those official absent voting ballots which have been returned to the clerk. Copies of said lists [shall be open to inspection and] **with names only** shall be posted at the polling places on the day of election as provided in RSA 658:27.

36:10 Candidate of One Party. Amend RSA 659:91-a, I to read as follows:

I. Any person who is a candidate on any party's state primary election ballot shall not run as the nominee of a different party in the state general election unless he is successful in securing the nomination of his own party in the primary. [Any person who runs as a candidate on any party's state primary election ballot and who is not chosen as the candidate for that party for the elective office for which he was a candidate shall not under any circumstances run as the nominee of a different party in the state general election.]

36:11 Voters and Checklists. Amend RSA 669:5 to read as follows:

669:5 Voters and Checklists. An updated checklist shall be used at all town meetings and elections for the same purposes a checklist is used at a state election and to insure that only qualified voters participate in town meeting discussions and votes, by voice or otherwise. The supervisors shall prepare, post and revise the checklist for a town meeting or election in the same manner as for a state election as provided in RSA 654:25-654:31[, except that the session for correction of the checklist 3 weeks prior to the day of the election as provided in RSA 654:27 shall not be required to be held before a town meeting or election]. The supervisors shall also hold one session for correction of the checklist on the day immediately prior to the first day of the filing period for candidates for town office, as provided in RSA 669:19 or 669:42, as applicable, from 7 p.m. to 9 p.m.

36:12 Repeal. RSA 659:68, relative to counting votes when a candidate is nominated by more than one party, is repealed.

36:13 Effective Date.

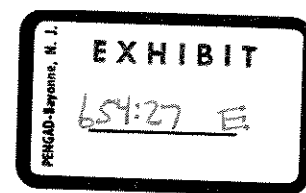
I. Sections 1, 2, and 7-13 of this act shall take effect 60 days after its passage.

II. Sections 3-6 of this act shall take effect January 1, 1997.

Approved: April 24, 1996

Effective: I. Sections 1, 2, and 7-13 shall take effect June 23, 1996.

II. Sections 3-6 shall take effect January 1, 1997.



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1989 SESSION 1424B

89-1040

10

HOUSE BILL AMENDED BY THE SENATE

HOUSE BILL NO. 562-FN

INTRODUCED BY: Rep. Flanagan of Rockingham Dist. 8; Rep. Holden of
Hillsborough Dist. 9

REFERRED TO: Constitutional and Statutory Revision

AN ACT making technical changes in the election laws.

AMENDED ANALYSIS

This bill amends the election laws relative to:

- I. The information on voter registration forms.
- II. The information used on checklists and checklist procedures.
- III. Posting and the availability of checklists.
- IV. The time for holding sessions to correct the checklist and the procedures used during those sessions.
- V. Certifying and verifying checklists.
- VI. Placing the name of substitute candidates on the ballot.
- VII. Records of absentee ballots.
- VIII. Posting general election warrants.
- IX. Appointing assistant election officials.
- X. Disqualifying election officials.

shall establish standard forms and procedures for the use of the supervisors for the maintenance of such information. The information to be maintained and updated shall include the full name, address and party affiliation, if any, of each voter on the checklist and such other information as the secretary requires. The supervisors shall use the information so maintained and updated to prepare the checklist for all state elections. Every checklist used at any state election shall contain as a minimum the full name, [mailing] address, **and mailing address if different**, and party affiliation, if any, of each voter on the checklist.

3 Posting Checklist. Amend RSA 654:26 to read as follows:

654:26 Posting Checklist. The supervisors shall make and post copies of the current checklist at [2 or more public places in town] **the office of the town or city clerk or at the town hall** not later than the fourth

Tuesday before the day of any state election.

4 Sessions for Correction. Amend RSA 654:27 to read as follows:

654:27 Sessions for Correction. In cities and towns, the supervisors of the checklist shall be in session for the correction of the checklist at some suitable place in the city or town on at least 2 occasions before any state election, the last of which shall be on the Saturday 10 days prior to the election and upon which all hearings shall be finally closed, **provided, however, that if the Saturday falls on a holiday weekend, that session shall be held on Tuesday, 7 days prior to the election, between 7:00 p.m. and 9:00 p.m.** The first session shall be upon the third Tuesday preceding the day of election and shall take place for [at least] 2 hours between [6:00] **7:00 p.m.** and 9:00 p.m. and shall be adjourned to such subsequent day or days at the same time as will permit all claims to be heard and decided. Notice of the day, hour and place of each session of the board of supervisors shall be given upon the checklists first posted and shall be published in a newspaper of general circulation in the city or town at least 7 days prior to each such session. The reconvening of any session which has been adjourned shall not require the publication of notice.

5 Procedure. Amend RSA 654:28 to read as follows:

654:28 Procedure. The supervisors of the checklist shall hear all applications for a correction of the checklist and the evidence submitted thereon and shall correct it according to their best knowledge so that it contains only the names of those persons qualified to vote at said election. The names of all persons not qualified to vote at the time of

any session, but who shall clearly be qualified to vote on election day, may be added to the checklist at that session. Any session which is held on the Saturday 10 days prior to election day shall be held as a minimum requirement between 11:00 a.m. and 12:00 p.m. and at the discretion of the supervisors for additional hours. No additions or corrections shall be made after [6:00 p.m. on] the session [day] which is held on the Saturday 10 days prior to election day, except as provided in RSA 659:12 **or RSA 654:27, provided, however, that if the Saturday falls on a holiday weekend, that session shall be held on Tuesday, 7 days prior to the election, between 7:00 p.m. and 9:00 p.m.** The additions and corrections resulting from such sessions shall be made to the previously posted checklist on or before midnight on the succeeding Friday either by additions or corrections to said checklist or by posting a new corrected checklist. Notice of such additions or corrections to the checklist shall also be given to the town or city clerk.

EXHIBIT

654:27 F

in RSA 654:3 may apply to the city or town clerk or to the secretary of a overseas citizens federal election absentee registration affidavit. The affidavit shall be prepared by the secretary of state and shall be in the following form:

Affidavit

I am a United States citizen; _____, do hereby depose as follows: that I have been domiciled outside the United States

since _____ (month) _____ (year);

3) That I hold a valid _____ passport or card of identity with registration No. _____ issued by the United States Secretary of State;

4) That, immediately prior to my departure from the United States, I was legally domiciled in the state of New Hampshire at the following address.

Street and Number or Rural Route,
etc.

City or Town

5) That I will be of the age of 18 years or older on election day, have complied with all applicable qualifications and requirements of the state of New Hampshire, and am entitled to vote in the next subsequent federal election to be held in said state;

6) That I do NOT maintain a domicile, am NOT registered to vote and am NOT voting in any other state, territory, or possession of the United States, or election district thereof;

7) That my party affiliation (if any) is _____

Street or Route Number

9) That I hereby make application for the addition of my name to the checklist of _____, New Hampshire, as an overseas citizen entitled to vote in any federal election held therein.

Signature of Applicant

II. There shall be printed below the affidavit described in the preceding section the following certificate:

Certificate

I, _____, the undersigned officer, do hereby certify that on the _____ day of _____, 19____, the above named _____, having satisfied me as to his identity, subscribed the foregoing affidavit in my presence, and did before me swear to (or affirm) the truth of the statements therein contained.

Signature of Officer

Title

654:21 Forwarding. Each such affidavit and certificate shall be directly

forwarded to the applicant by the city or town clerk or by the secretary of state.

654:22 Execution of Affidavit and Certificate. Such affidavit shall be executed before a person authorized to perform notarial acts pursuant to the provisions of RSA 456-A. Such officer, after executing the certificate, shall attach thereto proof of his official capacity and shall forward the affidavit and certificate to the clerk of the town or city named for submission to the supervisors of the checklist.

654:23 Effect. Unless the supervisors of the checklist shall be of the opinion that the applicant does not qualify as an overseas voter in the city or town as provided in RSA 654:3, they shall, at their next session for the correction of the checklist subsequent to their receipt of such affidavit and certificate properly executed, cause his name to be added to the checklist together with a mark or sign clearly indicating that the applicant has been entered on the checklist for the purpose of voting in federal elections only. Thereafter, such person shall be entitled to vote by overseas citizen absentee ballot at federal elections. If the supervisors decide not to add the name of the applicant to the checklist, they shall send notification to the applicant in writing within 7 days stating the reason for that denial.

Voters in Unincorporated Places

654:24 Registration. Inhabitants of unincorporated places shall register to vote as provided in RSA 668.

Checklists: All State Elections

654:25 Preparing Checklist. The secretary of state shall issue and distribute guidelines for the composition and style of checklists and for the maintenance of data related to checklists by which the supervisors of the checklist shall compile and correct the checklist. Such guidelines shall specify the information which is to be maintained and updated by the supervisors. The secretary shall establish standard forms and procedures for the use of the supervisors for the maintenance of such information. The information to be maintained and updated shall include the full name, address and party affiliation, if any, of each voter on the checklist and such other information as the secretary requires. The supervisors shall use the information so maintained and updated to prepare the checklist for all state elections.

654:26 Posting Checklist. The supervisors shall make and post copies of the current checklist at 2 or more public places in town at least 30 days before the day of any state election.

654:27 Sessions for Correction. In cities and towns, the supervisors of the checklist shall be in session for the correction of the checklist at some suitable place in the city or town on at least 2 occasions before any state election, the last of which shall be on the Saturday 10 days prior to the election and upon which all hearings shall be finally closed. The first session shall be upon the third Tuesday preceding the day of election and shall take place for at least 2 hours between 6:00 p.m. and 9:00 p.m. and shall be adjourned to such subsequent day or days at the same time as will permit all claims to be heard and decided. Notice of the day, hour and place of each session of the board of supervisors shall be given upon the checklists first posted and shall be published in a newspaper of general circulation in the city or town at least 7 days prior to each such session. The reconvening of any session which has been adjourned shall not require the publication of notice.



U.S. Department of Justice

Civil Rights Division

EXHIBIT

PENGAD 800-631-6869

654:27 G

JDR:RPL:SMC:jdh
DJ 166-012-3
2004-2563
2004-2581
2004-2582

Voting Section - NWB
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

June 22, 2004

Orville B. Fitch II, Esq.
Assistant Attorney General
Civil Bureau
Department of Justice
33 Capitol Street
Concord, New Hampshire 03301-6397

Dear Mr. Fitch:

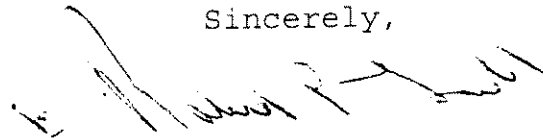
This refers to Session Law Chapter 436 (HB 575) (1979), which recodifies the election laws of the State of New Hampshire; Session Law Chapter 266 (HB 577) (2003), which implements the Help America Vote Act of 2002 (HAVA), 42 U.S.C. 15301-15545; and the adoption of formal administrative procedures for the resolution of election law complaints, including complaints filed under Title III of HAVA, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on June 7, 2004.

The Attorney General does not interpose any objection to the specified changes. Regarding Session Law Chapter 266, we note that the act specifically amends the following provisions of the State's election laws: RSA 655:19, II (Chapter 387 (1991)) (to provide for the deposit of certain candidate filing fees collected by the secretary of state into the election fund); RSA 655:19-c (Chapter 387 (1991)) (to provide for the deposit of any administrative assessments paid to the secretary of state into the election fund); RSA 664:3, I (Chapter 351 (1997)) (to provide for the deposit of political committee registration fees paid to the secretary of state into the election fund); RSA 664:21, II (Chapter 351 (1997)) (to provide for the deposit of any administrative fines for violations of the State's campaign finance laws into the election fund); and RSA 665:7 (Chapter 436 (1979)) (to authorize the Ballot Law Commission to hear and resolve complaints alleging violations of Title III of HAVA, as specified).

We note also that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Session Law Chapter 266 includes provisions that are enabling in nature. Therefore, the State is not relieved of its responsibility to seek Section 5 preclearance of any changes affecting voting proposed to be implemented pursuant to this legislation (e.g., creation of a centralized statewide voter registration database by the secretary of state and guidelines issued by the secretary of state implementing the database). See 28 C.F.R. 51.15.

Sincerely,

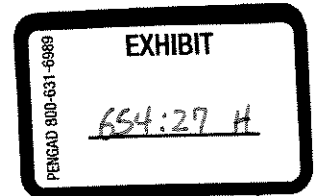
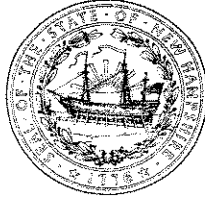
A handwritten signature in dark ink, appearing to read "Joseph D. Rich", is written over a horizontal line.

Joseph D. Rich
Chief, Voting Section

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL

News Release

RELEASED BY: Attorney General Kelly A. Ayotte

SUBJECT: Voting Rights Act – Submission of a request for preclearance of changes to New Hampshire Voting laws and procedures

DATE: June 10, 2005

RELEASE TIME: Immediate

Attorney General Kelly A. Ayotte announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. Federal regulations require that the public be notified that the State has filed a request for preclearance and that the submission be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Ayotte and the federal Department of Justice invite persons interested in this submission to submit comments and information, in writing or by telephone, to the Voting Section of the Federal Department of Justice, Civil Rights Division, at the earliest possible date to ensure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7354 – NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530. The envelope and first page should be marked "Comment under section 5." Additional information on the Voting Rights Act and the preclearance process can be obtained at the web site of the Federal Department of Justice at:

<http://www.usdoj.gov/crt/voting/index.htm>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>
New Hampshire Toll Free 1-866-8868-3703
or 1-866-VOTER03
electionlaw@doj.nh.gov